

**Fiscal Year (FY) 2016 Appropriation Reporting Requirement**  
**Public Act 84 of 2015 Section 601**  
**Warranty Program**

(1) The Michigan Department of Transportation (MDOT) has consistently been one of the top state DOTs in the nation in the number and value of road construction warranties it requires. MDOT continues to work with the road construction industry and engineering consulting community to improve the warranty program. Since 1997, when legislation was enacted requiring the department secure warranties “where possible,” there have been a total of more than 3,530 warranty projects for roads and bridges. Just over 13.3% of warranty projects have required corrective action by the contractor.

(1a) MDOT is committed to accountability and performance measurement, and continually works to find the most efficient and effective means to deliver highway construction projects to improve or sustain the condition of Michigan’s state trunkline system. MDOT continues to consider new warranty types, such as warranties on carbon fiber reinforced polymer structural strengthening materials, and has recently implemented a new two year warranty on concrete surface coating. MDOT also utilizes standard warranties on design/build projects.

(1b) MDOT continues to have warranties that are two, three, and five years in length. The length of the warranty is dependent on the type of work that is being constructed. The surety industry has maintained their position that they will not bond a warranty beyond five years.

(1c) Warranties cost money, like insurance, and therefore add costs to projects both for the road agency and the contractor, which ultimately means less money for other construction work. Taken across all projects, and considering the relatively small number of warranties requiring corrective action, warranty costs result in money being diverted from actual construction to the cost of providing the warranty. The benefit of the warranties is to protect and be stewards of tax payer dollars by ensuring that quality products are constructed and unacceptable deficiencies, based on significant pavement performance data, are dealt with by the contractor at their own cost.

(1d) There are many factors to be balanced in the expansion of warranty requirements. Some projects lend themselves to warranties, but others do not. Examples of projects that would not be appropriate to warranty would be demonstration projects implemented to evaluate new methods, materials, or design; road projects undertaken to keep the road safe and serviceable until funding is available for a longer lasting fix; or a very short project making the cost to administer the warranty not cost effective.

An additional consideration is the degree to which the contracting community—much reduced because of Michigan's prolonged economic recession and the resulting lack of work—is able to accommodate greater warranty requirements. MDOT continues to work with its partners in the private sector to improve aspects of its warranties but, at the same time, does not want to overburden a sector of the economy still struggling to bounce back from the recession.

(1e) PA 175 of 2015 has established a requirement for local agencies to develop a warranty program and reporting requirements for all agencies. This law has opened a dialog between

MDOT, the local agencies, and industry. MDOT is assisting the local agencies in the development of their warranty programs.

(1f) MDOT continues to utilize its extensive pavement management system to analyze pavement performance and its MiBridge software, along with routine and in-depth bridge inspections, to analyze and monitor bridge performance.

(2) MDOT had 161 warranties that expired in FY 2015. Of those warranties, one had a late inspection. The initial entry of this project was incorrect, a five-year warranty type was selected. In preparation for the pending two and a half year interim inspection, the TSC pulled the warranty requirements from the contract and it was discovered that the project only had a two year warranty. Therefore, although the inspection was five months late, the inspection did show that the bridge paint was still in good condition and did not warrant corrective action.

(3a) The MDOT Warranty Improvement Team has created a defined timeline and progressive action plan for contractor notification when corrective action is required and escalation when contractors are unresponsive. This process is as follows:

- (1) First letter is sent to contractor and Surety Company notifying of required corrective action and a potential claim on the warranty bond – contractor and/or Surety Company has 30 days to respond.
- (2) If no response from the contractor or Surety Company within 30 days, a second/final notice is sent to the contractor, Surety Company, Office of Attorney General, and Contract Performance Evaluation Review Team notifying of required corrective action and a potential claim on the warranty bond – contractor and/or Surety Company has 15 days to respond.
- (3) If no response from the contractor or Surety Company within 15 days, the project office conducts a Warranty Contractor Performance Evaluation, which may impact prequalification status to do work for MDOT and notifies the Office of Attorney General to initiate contract default proceedings - contractor and/or Surety Company has 10 days to respond.
- (4) The Office of Attorney General will file a claim on the warranty bond and work with Surety Company to get corrective work completed.

(3b) Upgrades to the Statewide Warranty Administrative Database (SWAD) are in progress. By the end of March 2016, it is expected that the top four priorities will be in production. These include limiting the ability of users to change a project that was identified as requiring corrective action to no longer requiring corrective action; a new status to document older projects MDOT has missed an opportunity to fulfill the warranty requirements while maintaining the accuracy of the database; creating an export feature for easier reporting; and developing a system to auto-populate SWAD utilizing other MDOT programs.

(3c) At the end of FY 2015, MDOT had 516 active warranties (34 Bridge, 237 Capital Preventive Maintenance, and 245 Reconstruct and Rehabilitation). There were 134 of these warranties added in FY 2015 (8 Bridge, 95 Capital Preventive Maintenance, and 31 Reconstruct and Rehabilitation).

(3d) In FY 2015, MDOT had 161 warranties that expired. There were 23 of those warranties that required corrective action, and ten of those projects have had corrective action completed. Below is a list of the projects that have had corrective action completed along with the dates that that work was completed. The remaining 13 projects will be receiving corrective work in 2016.

WARRANTY NUMBER	TSC	WARRANTY TYPE	CONTRACT ID	WARRANTY EXPIRATION DATE	CORRECTIVE ACTION COMPLETED DATE
3020	Taylor	Pavement	82052-80377	11/20/2014	10/15/2015
3052	Brighton	Pavement	81075-100327	6/12/2015	7/16/2015
3579	Cadillac	CPM	57012-112878	8/22/2015	8/17/2015
3604	Marshall	Bridge	08012-83975	10/4/2014	8/19/2014
3618	Kalamazoo	Bridge	03111-89306	12/4/2014	5/2/2015
3637	Coloma	Bridge	14033-110872	8/13/2015	6/10/2015
3720	Muskegon	CPM	61152-109135	8/3/2015	9/22/2015
3885	Lansing	Bridge	33172-105914	8/9/2015	10/28/2015
3911	Lansing	Bridge	33172-110926	9/19/2015	10/23/2015
4121	Brighton	Bridge	47013-79897	12/2/2014	7/8/2015

(3e/f) Of the 23 projects that required corrective action in FY 2015, the contractor was notified prior to the warranty expiration date on 22. Documentation of the initial notification to the contractor was unable to be located for the one remaining warranty; however, follow up communications with the contractor were located. This follow-up communication was 141 days after the warranty expired. Corrective work on this project is to take place in spring of 2016. The contractor has applied for all appropriate permits and bonds to complete this work.

(3g) Currently, there are ten warranties that have outstanding corrective action over 15 months past the warranty expiration date. All ten contractors have committed to completing corrective work in 2016.

(4) See report above.

(5) MDOT released an internal Construction Advisory (CA-2015-13) in May 2015 emphasizing the need to complete and retain documentation that supports the initial acceptance, interim and final inspections, and notifications to contractors. MDOT continues to reinforce the requirement to all staff throughout the state at various meetings and conferences. MDOT's Contract Services Division, in coordination with the Construction Field Services Division, is working to review and evaluate consultant evaluation requirements and update procedures to reflect management philosophy by December 2016.